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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------|------------------|
| 10/840,185 | 05/06/2004 | Duane A. Gerig | IPP0107.US | 7514 |
| 41863 | 7590 | 08/04/2006 | EXAMINER | |
| TAYLOR & AUST, P.C. 142 SOUTH MAIN STREET P. O. BOX 560 AVILLA, IN 46710 | | | ABBOTT, YVONNE RENEE | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3644 | |

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/840,185 | Applicant(s) GERIG ET AL. | |
| | Examiner Yvonne R. Abbott | Art Unit 3644 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 23-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-7, 23-26 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Christiansen (5,815,077). Christiansen discloses a method of modifying the behavior of an animal, comprising the steps of: increasing a stimulation level of a stimulation device attached to a collar in stimulating contact with the animal, said stimulation level associated with one of a plurality of levels, said plurality of levels including a minimum level; applying a stimulation to the animal associated with said stimulation level; determining a compliant behavior of the animal; reducing said stimulation level to one of said plurality of levels between a current stimulation level and said minimum level dependent upon said determining step; and setting said current stimulation level to said

minimum level dependent upon a triggering event (col. 3, lines 38-56); wherein the increasing and applying step are repeated if noncompliant behavior is detected; and wherein the determining step includes receiving one of a signal that a border has been violated by the animal and a signal that the animal has barked.

4. Claims 1, 2, 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Farkas (4,947,795). Farkas discloses a method of modifying the behavior of an animal, comprising the steps of: increasing a stimulation level of a stimulation device attached to a collar in stimulating contact with the animal, said stimulation level associated with one of a plurality of levels, said plurality of levels including a minimum level; applying a stimulation to the animal associated with said stimulation level; determining a compliant behavior of the animal; reducing said stimulation level to one of said plurality of levels between a current stimulation level and said minimum level dependent upon said determining step: and setting said current stimulation level to said minimum level dependent upon a triggering event; wherein the increasing and applying step are repeated if noncompliant behavior is detected; and wherein the determining step includes receiving one of a signal that a border has been violated by the animal and a signal that the animal has barked (see Abstract).

5. Claims 1, 2, 4-7 and 23-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Crist et al. (6,928,958). Crist et al. disclose a method of modifying the behavior of an animal, comprising the steps of: increasing a stimulation level of a stimulation device attached to a collar in stimulating contact with the animal, said

stimulation level associated with one of a plurality of levels, said plurality of levels including a minimum level; applying a stimulation to the animal associated with said stimulation level; determining a compliant behavior of the animal; reducing said stimulation level to one of said plurality of levels between a current stimulation level and said minimum level dependent upon said determining step; and setting said current stimulation level to said minimum level dependent upon a triggering event; wherein the increasing and applying step are repeated if noncompliant behavior is detected; and wherein the determining step includes receiving one of a signal that a border has been violated by the animal and a signal that the animal has barked. With respect to claims 23-26, Crist et al. disclose that when the battery is changed or recharged, or a switch activated it can trigger a powering down of the microcontroller, and a reduction in the level of stimulation applied to the animal (col. 6, lines 31-67, col. 7, lines 1-17).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Christiansen ('077). Although Christiansen discloses that there is a plurality of stimulation levels, it is not specifically disclosed that there are at least three levels. It

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would have been obvious to one of ordinary skill in the art at the time the invention was made that there be three levels or to vary the number of levels depending on the nature of the animal to be trained (i.e. more or less obedient), and where routing testing and general experimental conditions are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routing skill in the art.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farkas ('795). Although Farkas discloses that there is a plurality of stimulation levels, it is not specifically disclosed that there are at least three levels. It would have been obvious to one of ordinary skill in the art at the time the invention was made that there be three levels or to vary the number of levels depending on the nature of the animal to be trained (i.e. more or less obedient), and where routing testing and general experimental conditions are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routing skill in the art.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crist et al. ('958). Although Crist et al. disclose that there is a plurality of stimulation levels, it is not specifically disclosed that there are at least three levels. It would have been obvious to one of ordinary skill in the art at the time the invention was made that there be three levels or to vary the number of levels depending on the nature of the animal to be trained (i.e. more or less obedient), and where routing testing and general experimental conditions are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routing skill in the art.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

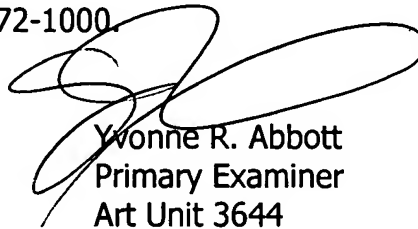
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (571) 272-6896. The examiner can normally be reached on Monday-Thursday 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (571) 272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Yvonne R. Abbott
Primary Examiner
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